

REMARKS

Review and reconsideration of the Office Action of November 8, 2002, is respectfully requested in view of the above amendment and the following remarks.

Applicants would like to thank the Examiner for the indication that Claims 28-30, 34, 41, and 47 contain allowable subject matter and would be allowable if re-written to overcome the formalities rejections. Claims 28-30, 34, 41, and 47 have been re-written in independent form to overcome the rejection.

Claims have been amended to overcome all the formalities rejections.

Claims 23, 38, and 48<sup>437</sup> have been amended by adding the limitation that the deflection site is located in the space between two treatment elements (seeds). Support for the claim amendment can be found in Figure 3 and page 14, paragraph 00056, of the specification.

No new matter has been added to the claims.

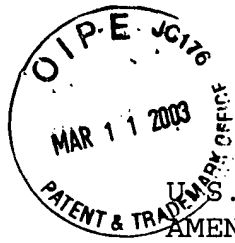
Applicants would like to point out to the Examiner that compared with independent Claims 23, 38, and 48, the Liprie reference fails to teach that the deflection site is located in the space between two seeds.

In the present invention, the deflection site is located between two treatment elements. With this design, the ends of the treatment elements function as internal joints to support bending of the deflection site(s). Further, the ends allow for

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homogenous three-dimensional distribution of radiation from the treating element so that bending of the radiation-emitting source or the container does not result in inhomogenities of irradiation of the surrounding tissue.



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### Office Action

Turning now to the Office Action in greater detail, the paragraphing of the Examiner is adopted.

### Information Disclosure Statement

The Examiner has considered the Information Disclosure Statement filed 5/30/02.

Applicants thank the Examiner for the indication.

### Claim Rejections (Formalities)

The Examiner rejects Claims 23-48 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention.

The position of the Examiner can be found on pages 2-3 of the Office Action.

In response, Applicants have amended the claims to overcome the formality rejection.

Accordingly, withdrawal of the rejection is respectfully requested.

**Claim Rejections - Anticipation**

The Examiner rejects Claims 23-27, 31, 35-37, 43-46, and 48 under 35 U.S.C. 102(b) as being anticipated by Liprie (5,833,593).

The position of the Examiner can be found on pages 3-4 of the Office Action.

Applicants respectfully traverse.

**For a reference to anticipate, it must disclose every single element of the claim.**

Compared with independent Claims 23, 38, and 48, the Liprie reference fails to teach that the deflection site is located in the space between two seeds.

In the present invention, the deflection site is located between two treatment elements. With this design, the ends of the treatment elements function as internal joints to support bending of the deflection site(s). Further, the ends allow for homogenous three-dimensional distribution of radiation from the treating element so that bending of the radiation-emitting source or the container does not result in inhomogenities of irradiation of the surrounding tissue.

Applicants reviewed the reference and note that the reference teaches a flexible source wire having a radioactive source that is capable of passing through various conduits in the body. The flexible source wire comprises a flexible housing having a plurality of radioactive cores enclosed in a capsule. See Figure 6 and column 11, lines 14-22. The reference also teaches a deflection point 295. See figures 3a-3d.

Thus, the reference is not anticipating Claims 23, 38, and 48 of the present invention.

Accordingly, withdrawal of the rejection is respectfully requested.

**Claim Rejections - Obviousness**

The Examiner rejects Claims 32-33 under 35 U.S.C. 103(a) as being obvious over Liprie (5,833,593).

The position of the Examiner can be found on page 4 of the Office Action

Applicants respectfully traverse for the same reason set forth above and the following remarks:

The claims are novel in view of their dependency with novel claim 23.

The Examiner rejects Claims 38-40 and 42 under 35 U.S.C. 103(a) as being obvious over Liprie (5,833,593).

The position of the Examiner can be found on page 5 of the Office Action.

Applicants respectfully traverse for the same reason set forth above.

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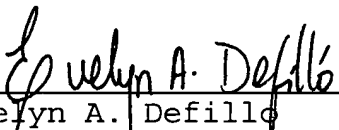
**Allowable Subject Matter**

The Examiner indicated that Claims 28-30, 34, 41, and 47 contain allowable subject matter and would be allowable if re-written to overcome the formalities rejections.

In response, Applicants have amended the claims in independent form to overcome the formalities rejections.

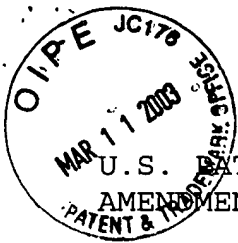
Favorable consideration and early issuance of the Notice of Allowance are respectfully requested. Should further issues remain prior to allowance, the Examiner is respectfully requested to contact the undersigned at the indicated telephone number.

Respectfully submitted,

  
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Date: **March 5, 2003**



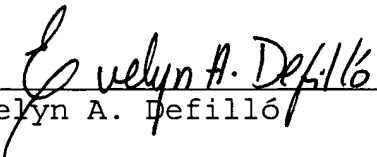
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CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that the foregoing AMENDMENT A for U.S. Application No. 10/018,623 filed December 18, 2001, were deposited in first class U.S. mail, postage prepaid, Washington, D.C. 20231, on **March 5, 2003**.

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.

  
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Evelyn A. DeFillio

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